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Message Text

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70
ORIGIN ERDA-07

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FM SECSTATE WASHDC
TO USMISSION IAEA VIENNA PRIORITY

C O N F I D E N T I A L STATE 098323

E.O. 11652: GDS
TAGS: PARM, TECH, IAEA, US
SUBJECT: NEGOTIATION OF SAFEGUARDS AGREEMENT PURSUANT TO U.S. VOLUNTARY OFFER

REF: IAEA VIENNA A-118

1. FOLLOWING RESPONDS TO PROPOSALS REPORTED REF AIRGRAM PARAS INDICATED. RECOMMEND THAT MISSION DISCUSS WITH JOHN MAHY, ERDA, CURRENTLY IN VIENNA FOR SAFEGUARDS MEETINGS, WHO PARTICIPATED IN OUR REVIEW OF AGENCY PROPOSALS AND CAN ELABORATE.

2. REF PARA A. PLEASE ADVISE OF ANY PREAMBLE CHANGES AGENCY WISHES TO PROPOSE.

3. PARAS B, D, G, H, AND L THROUGH S: PROPOSALS ACCEPTED.

4. PARA C. NEW ARTICLE 1.C. ACCEPTABLE WITH DELETION OF WORDS QUOTE PART II OF UNQUOTE, SINCE SOME PERTINENT PROCEUDRES ARE SET FORTH IN PART I, I.E., ARTICLE 12.

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5. PARA E. CANNOT ACCEPT ADVANCE NOTIFICATION REQUIREMENT IN PROPOSED REVISION OF ARTICLE 12.A. ASSUME PROPOSED PURPOSE OF INCLUDING SUCH REQUIREMENT WOULD BE TO PLACE ON U.S., WITH RESPECT TO TRANSFERS OUT OF ELIGIBLE FACILITIES, BURDEN

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SIMILAR TO BURDEN ON NNWS WITH RESPECT TO EXPORTS. FACT IS, HOWEVER, THAT BURDEN OF PROPOSED REQUIREMENT ON U.S. WOULD BE FAR GREATER THAN ADVANCE EXPORT NOTIFICATION BURDEN ON NNWS UNDER TREATY SAFEGUARDS AGREEMENTS, EVEN IF REQUIREMENT ON U.S. WERE LIMITED (AS IT IS WITH RESPECT TO NNWS ADVANCE NOTIFICATION REQUIREMENT ON EXPORTS) TO TRANSFERS EXCEEDING ONE EFFECTIVE KILOGRAM. IT SHOULD BE NOTED THAT TRANSFERS FROM ELIGIBLE FACILITIES TO OTHER U.S. FACILITIES WILL TAKE PLACE NOT MERELY FOR NATIONAL SECURITY PURPOSES, AS IMPLIED PARA E THIRD SENTENCE. CONSTANT AND HEAVY FLOW OF TRANSFERS TAKES PLACE FOR PEACEFUL PURPOSES TO FACILITIES EXEMPT FROM ELIGIBLE LIST, E.G., FEED MATERIAL TO ENRICHMENT PLANTS AND VARIOUS TYPES OF MATERIALS TO DUAL PURPOSE PLANTS. IN ADDITION, THERE ARE TRANSFERS TO UNIVERSITIES AND OTHER ESTABLISHMENTS WHICH USE NUCLEAR MATERIAL IN QUANTITIES TOO SMALL TO BE OF SAFEGUARDS SIGNIFICANCE AND THEREFORE WILL NOT BE ON ELIGIBLE LIST. WE DOUBT THAT THIS FLOW BEARS EVEN RELATIVE COMPARISON TO EXPORT FLOW FROM ANY NNWS. FURTHERMORE, SINCE INPUT TO ELIGIBLE FACILITIES WILL NOT BE SUBJECT TO ADVANCE NOTIFICATION, SUCH NOTIFICATION ON OUTPUT WILL NOT PROVIDE AGENCY WITH TOTAL MONITORING CAPABILITY WITH RESPECT TO ANY MUF. IN OTHER WORDS, NEW ADVANCE NOTIFICATION REQUIREMENT WOULD PLACE EXCESS BURDEN ON U.S. WITHOUT AFFORDING ANY SAFEGUARDS ADVANTAGE. THEREFORE, WE RECOMMEND DELETION SUBPARAS (III) AND (IV) IN AGENCY'S PROPOSED REVISION AND INSERTION IN SUBPARA (I), AFTER QUOTE SHALL NOTIFY THE AGENCY OF EACH WITHDRAWAL UNQUOTE, THE FOLLOWING PHRASE QUOTE IN ACCORDANCE WITH THE RELEVANT PROVISIONS OF PART II OF THIS AGREEMENT UNQUOTE. ALSO, IN FIRST SENTENCE OF ARTICLE, CHANGE QUOTE IF THE U.S. INTENDS TO EXERCISE ITS RIGHT UNQUOTE TO QUOTE IF THE U.S. EXERCISES ITS RIGHT UNQUOTE.

6. NEW FORMULATIONS ARTICLE 12(B) AND 89(B) ACCEPTABLE. FOR CLARITY AND CONSISTENCY SUGGEST CHANGING ARTICLE 89(B) SUB-PARA (A) TO READ "FROM THE TIME THAT SUCH RESPONSIBILITY IS ASSUMED BY THE U.S., AND NO LATER THAN ETC", THUS USING WORDING CORRESPONDING TO THAT IN SUB-PARA (B).
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7. PARA EYE. REVISED ARTICLE 34 ACCEPTABLE WITH INSERTION, IN SUBPARA (B)(I), OF QUOTE AT THE TIME OF NOTIFICATON UNQUOTE AFTER QUOTE THE NUCLEAR MATERIAL CONTAINED THEREIN UNQUOTE, SINCE THERE MAY BE CHANGES IN MATERIAL BALANCE AREAS BETWEEN DATE OF NOTIFICATION AND DATE OF REMOVAL OF FACILITY. SUBPARA (B)(III), RECOMMEND DELETING AS SUPERFLUOUS QUOTE AND THE NUCLEAR MATERIAL CONTAINED THEREIN UNQUOTE. RE CONCLUDING SENTENCE, FOR CLARITY RECOMMEND CHANGING QUOTE AS FROM THE DATE OF REMOVAL UNQUOTE TO QUOTE IN ACCORDANCE WITH AND AT THE TIME SPECIFIED IN NOTIFICATION BY THE U.S. UNQUOTE. ADVISE OF AGENCY PROPOSAL FOR ADDITIONAL PARA REGARDING REMOVAL OF FACILITIES OTHER THAN THOSE CURRENTLY IDENTIFIED FOR SAFEGUARDS APPLICATION.

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8. PARA J. ARTICLE 39 CHANGES ACCEPTABLE WITH ADDITION OF FOLLOWING AT END OF SENTENCE ADDED TO 39.C: QUOTE AND SAFEGUARDS SHALL TERMINATE ON THE NUCLEAR MATERIAL CONTAINED IN SUCH FACILITIES UNQUOTE, IN VIEW DELETION OF ARTICLE 40.D.

9. PARA K. ARTICLE 40.C. SUBSTITUTION ACCEPTABLE. STAFF WILL SUPPORT REMOVAL OF BRACKETS FROM CLAUSE QUOTE EVEN IF THE SUBSIDIARY ARRANGEMENTS HAVE NOT YET ENTERED INTO FORCE UNQUOTE.
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